

ARTICLE 1: FULL NAME OF THE AGREEMENT

1.1 The full name of this Agreement is THE Alliance Agreement (hereinafter referred to as the “Agreement”).

ARTICLE 2: PARTIES TO THE AGREEMENT

2.1 The Parties to the Agreement are:

Hapag Lloyd Aktiengesellschaft
Ballindamm 25
20095 Hamburg, Germany
and
Hapag-Lloyd USA LLC
399 Hoes Lane
Piscataway, NJ, 08854 USA
(operating as one party for all purposes hereunder)

Ocean Network Express Pte. Ltd.
7 Straits View, Marina One East Tower,
#16-01, Singapore 018936
~~240 Tanjong Pagar Road,~~
~~#05-00 Keppel Towers 2,~~
~~Singapore 088540~~

Hyundai Merchant Marine Co., Ltd.
194 Yulgok-ro,
Jongno-gu, Seoul 03127
Korea

Yang Ming Marine Transport Corp.
271 Ming De 1st Road, Cidu District, Keelung 20646
Taiwan
and
Yang Ming (Singapore) Pte. Ltd.
171, Chin Swee Road, CES Centre #08-01, Singapore 169877, Singapore
and
Yang Ming (UK) Ltd.
2nd Floor, 210 South Street, Romford, Essex, England, RM1 1TR, UK
(operating as one party for all purposes hereunder)

(each hereinafter referred to individually as a “Party,” and collectively as “the Parties”)

ARTICLE 3: PURPOSE OF THE AGREEMENT

3.1 The purpose of this Agreement is to authorize the Parties to charter and exchange space on one another’s vessels and to rationalize, coordinate and cooperate with respect to the Parties’ transportation services and operations in order to improve efficiency, save costs, and provide premium service to the shipping public in the Trade.

ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

4.1 The geographic scope of this Agreement is the trade between ports in North Asia, South Asia, Middle East (including the Arabian Gulf and Red Sea Regions), Northern Europe, Mediterranean, Adriatic, and Black Sea, Egypt, Panama, Mexico, Canada, Central America and the Caribbean on the one hand, and ports on the East, Gulf, and West Coasts of the United States, by any route including via the Panama and Suez Canals or the Cape of Good Hope, on the other, as well as ports and points served via such U.S. and foreign ports (the “Trade”). The specific countries/regions that are within the geographic scope of this Agreement are listed in Appendix A hereto.

There shall be no geographic restrictions on the origin or destination of cargo carried on vessels employed in the services established pursuant to this Agreement. In other words, such cargo may originate from or be destined for ports or points outside the geographic scope of this Agreement. The inclusion of any non U.S. trades in this Agreement shall not bring such non U.S. trades under the jurisdiction of the U.S. Federal Maritime Commission or entitle the Parties hereto to immunity from the U.S. antitrust laws with respect to such non U.S. trades.

ARTICLE 5: AGREEMENT AUTHORITY

5.1 The Parties are authorized to meet together, discuss, reach agreement and take actions necessary to implement or effectuate agreements regarding sharing of vessels, chartering or exchange of space, rationalization and related coordination and cooperative activities pertaining to their operations and services, and related

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equipment, vessels and facilities in the Trade. It is ~~initially~~ currently contemplated that the Parties will jointly coordinate the operation and sharing of space on approximately ~~151~~ 168 container vessels in the Trade with nominal capacities ranging from 3,000-~~14~~ 15,500 ~~000~~ TEUs.

5.2 In furtherance of the authorities set forth in Article 5.1, the Parties are authorized to engage in the following activities, to the extent permitted by the applicable law of the relevant jurisdictions within the scope of this Agreement, and subject to any applicable filing requirements:

- (a) Consult and agree upon the type, capacity, speed, and total number of vessels to be used and contributed by each Party, including changes in the number and size of vessels provided by any Party, and substitution of vessels and the terms, conditions and operational details pertaining thereto, without the need to amend this Agreement, provided that the Parties are authorized to adjust the number of linehaul vessels to be used in connection with this Agreement up to a maximum of ~~180~~200 with maximum capacity of ~~21~~24,000 TEUs, with a maximum weekly capacity of ~~180~~200,000 TEUs, and as few as 80 vessels, with a minimum weekly capacity of 70,000 TEUs. The Parties shall conduct regular reviews of the services to be offered under this Agreement, and where necessary agree to make changes in accordance with Article 6. It is intended that the services operated hereunder will provide sufficient slots to cover the Parties' respective requirements for the movement of cargo in an expeditious and efficient manner;
- (b) Consult and agree upon the sailing patterns, ports to be called, port rotation, vessel itineraries, schedules, the number, frequency, and character of sailings at ports, transit times, adjustment of the speed of vessels (including slow steaming of vessels), performance criteria and consequences for a Party failing to adhere to the established schedule and/or to load cargo in accordance with its obligations hereunder, and all other matters related to the scheduling and coordination of vessels and services;
- (c) Consult and agree upon the exchange or allocation of space, on such terms as they may agree from time to time. Allocation of space will generally be based on the principle that the Parties' basic slot allocation ("BSA") will be equivalent to contribution. That principle may be applied, and agreements based, in whole or in part, as the Parties may agree, on consideration of multiple factors, including provision/allocation in multiple U.S. and/or non-U.S. trade lanes;
- (d) Consult and agree upon terms and conditions, including the amount of advance notice required prior to a Party's withdrawal of a vessel(s), as well as the allocation of any costs associated therewith; or introduction of additional, substitute, or replacement vessels in the Trade and the characteristics (including but not limited to size, capacity, speed, configuration, and delivery date) of such vessels;

(for a ~~three~~ four Party agreement, a majority shall require ~~2~~ 3 or more votes), provided that in the case of a split decision on routine operational matters, the majority is determined by two votes which have a majority of 60% of the outstanding shares of the allocated slots and deadweight capacity for the containerships in the relevant loop, which will become the deciding factor. ~~the vessel operator may make the decision based on the applicable established operating procedures of that vessel operator, with the basic guiding rule that vessels being on schedule and meeting their proforma windows shall take priority.~~ The Parties may discuss and agree from time to time on other voting rules for specific decisions not otherwise set forth in this subparagraph. Notwithstanding the foregoing, if Hyundai Merchant Marine Co, Ltd. does not receive a BSA for the trade between Northern Europe/Mediterranean/Adriatic on the one hand and North America on the other hand, it shall have no voting rights with respect to issues relating to services in those trades.

6.3 The following persons are authorized to subscribe to and file this Agreement and any accompanying materials, as well as any subsequent modifications to this Agreement which may be adopted by the Parties:

- (a) Any authorized officer of each of the Parties; and
- (b) Legal counsel for the Parties collectively or individually.

6.4 The Parties may implement this Agreement by decisions made or actions taken at meetings or by telephone, fax, e-mail, or exchange of other writing.

ARTICLE 7: DURATION AND TERMINATION OF AGREEMENT

7.1 This Agreement shall be effective as of the later of April 1, 2017 or the date it becomes effective under the U.S. Shipping Act of 1984, as amended, and shall continue in effect until April 1, ~~2022~~ 2030. Thereafter, the Agreement will be automatically renewed for additional one (1) year terms unless terminated by a Party or Parties according to the provisions of this Article 7, unanimous agreement of the Parties, or withdrawal of all but one of the Parties.

7.2 Any Party shall have the right to withdraw from this Agreement without financial or other penalty by giving twelve (12) months' written notice, provided that such notice may not be given prior to April 1, ~~2023~~ 2020.

7.3 [RESERVED]

8.2 In the event that a Party considers that any cause, happening, or event not within its control substantially impairs its ability to enjoy its rights or carry out its or other Parties' obligations under this Agreement then, at its request, the Parties shall meet together with all reasonable dispatch in order to consider such adjustment of the terms of this Agreement as may be mutually acceptable.

ARTICLE 9: CONFIDENTIALITY

9.1 Except as required by law or any regulatory or government authority, activities under this Agreement shall be regarded as confidential to the Parties and no Party acting for itself or on behalf of its employees, agents, and subcontractors shall divulge any non-public information concerning the business and affairs of the other Parties that it shall have obtained or received as a result of this Agreement or any discussions under it or leading to its formation without the prior written approval of the other Parties.

ARTICLE 10: GOVERNING LAW AND ARBITRATION

10.1 The interpretation, construction, and enforcement of this Agreement, and all rights and obligations between the Parties under this Agreement, shall be governed by the laws of England, provided, however, that nothing herein shall relieve the Parties from the applicable requirements of the U.S. Shipping Act of 1984, as amended.

10.2 Without prejudice to a Party's right to seek relief [as authorized by this Agreement or by applicable law](#), ~~in the courts~~ the Parties shall use reasonable efforts to negotiate in good faith and settle amicably any dispute or difference that may arise out of or relate to this Agreement (a "Dispute"). If a Dispute cannot be settled through negotiations by appropriate representatives of the Parties involved, a Party may give to the other Party(s) a notice in writing of the Dispute and request the Dispute to be resolved between the senior management of the relevant Parties (a "Dispute Notice"). Within seven (7) days of the Dispute Notice being given the relevant Parties shall each refer the Dispute to a member of senior management nominated by the Party who shall meet in order to attempt to resolve the Dispute. If the Dispute is not settled by agreement in writing between the Parties within fourteen (14) days of the Dispute Notice being given, regardless of whether a meeting has taken place it shall be resolved in accordance with sub-clause 10.3 below.

10.3 Any Dispute arising out of or in connection with this Agreement which cannot be resolved amicably shall be referred to arbitration in London (unless varied with the unanimous consent of the Parties involved) in accordance with the Arbitration Act of 1996 or any statutory modification or reenactment thereof. The arbitration shall be conducted in accordance with the LMAA (London Maritime Arbitration Association) terms current at the time when the arbitration proceedings are commenced.

10.4 In the case of a Dispute involving only two Parties, the tribunal shall consist of three (3) arbitrators. In such instances, the Party referring the matter to arbitration shall appoint its arbitrator and send notice of such appointment in writing to the other Party, and requesting that such Party appoint an arbitrator within 14 days. After appointment of an arbitrator by the second Party, the two appointed arbitrators shall appoint a third. If the two arbitrators cannot agree on a third, the third shall be appointed by the President of the LMAA upon request of either Line. The arbitrators shall have no financial or personal interest whatsoever in or with any Party and shall not have acquired a detailed prior knowledge of the matter in dispute. If the other Party does not appoint its own arbitrator and give notice that it has done so within the 14 days specified, the Party referring a Dispute to arbitration may, without the requirement of any further prior notice to the other Party, appoint its arbitrator as sole arbitrator and shall advise the other Party accordingly. The award of a sole arbitrator shall be binding on both Parties as if he had been appointed by agreement.

10.5 Where there are only two Parties to the Dispute and where the amount in dispute does not exceed US\$100,000, the arbitration shall be conducted in accordance with the LMAA Small Claims Procedure current at the time when the arbitration proceedings are commenced.

10.6 If a Party wishes to refer a Dispute to arbitration where there are three or more Parties involved in the Dispute, the referring Party shall request that the President of the LMAA for the time being appoint the three arbitrator tribunal.

10.7 Without prejudice to the tribunals' power under the LMAA Terms to order concurrent hearings, where two or more arbitrations appear to raise common issues of fact or law, the tribunals may direct that the arbitrations shall be consolidated. Where such an order is made, the tribunals may give such directions as the interests of fairness, economy and expedition require, including:

- (a) that any directions previously given shall be revoked;
- (b) that the documents which have been disclosed by the Parties in one arbitration shall be made available in the other arbitration upon such conditions as the tribunals may determine;
- (c) that the evidence which has been given in one arbitration shall be received and admitted in the other arbitration, subject to Parties being given a reasonable opportunity to comment upon it and subject to such other conditions as the tribunals may determine.

10.8 If an order for consolidation is made hereunder and the membership of the tribunals is not identical, the consolidated arbitration shall, after the date of consolidation, be heard and determined by the tribunal first appointed.

10.9 The arbitrators' decision, including the written findings of fact and conclusions, shall be final and conclusive; judgment may be entered on the award and the award shall be enforceable in any court of competent jurisdiction.

APPENDIX B

1. **Definitions.** The following definitions shall apply to this Appendix B:

Banking Day	means	a day (other than a Saturday or a Sunday) on which banks are open for general business in Tokyo, Taipei, Frankfurt, New York and Jersey
Contingency Contribution	means	<u>for HMM, USD 25.000 million</u> and in relation to each <u>other</u> Line, the following share of a total amount of USD 50m: HLC: 31.772% = USD 15.886 million ONE: 47.368% = USD 23.684 million YML: 20.860% = USD 10.430 million or, <u>except for HMM</u> , such other share as may from time to time apply pursuant to clause 2.11A.
Contingency Fund Share	means	A Line or former Line shall be deemed to have a Contingency Fund Share if it would be entitled to any amount from the Contingency Account if the Trust were dissolved on the date specified, as a result of termination of this Agreement in respect of all Lines.
Contingency Review Date	means	On or about every 1 April, starting from 1 April 2019 <u>2020</u> .
Contingency Guarantee	means	a letter of credit from an institution reasonably acceptable to the Lines other than the Line providing it.
Global Allocation Share (GAS)	means	Each Line's allocation of the total capacity within all trade lanes in THE Alliance services worldwide, which figure shall be reviewed on an annual basis.

- 2.11A Within 30 days after each Contingency Review Date, the Lines shall review, and if necessary adjust, without need to file an amendment to this Agreement, the amount of each Line's Contingency Contribution in accordance with this clause. If the GAS of any Line at such Contingency Review Date has changed by more than 5% compared to its GAS on the previous Contingency Review Date (or compared to the percentage set out in Clause 1 if there has not yet been a Contingency Review Date), the Contingency Contributions of the Lines shall be adjusted to reflect the GAS of each Line at such date. Provided, however, that HMM's Contingency Contribution shall remain fixed and shall not be adjusted based on changes in GAS.
- 2.11B Within 45 days after each Contingency Review Date, the Committee (acting unanimously) shall forthwith notify the Trustees of any adjustment to the Contingency Contribution of any Line(s) under clause 2.11A.
- 2.11C If a Line's Contingency Contribution changes pursuant to clause 2.11A, it shall within 60 days after the relevant Contingency Review Date:
- (a) procure that the amount of its Contingency Contribution minus USD 1 million is covered by a Contingency Guarantee or Contingency Guarantees (which may include a Contingency Guarantee previously provided and/or replacement of any existing Contingency Guarantee pursuant to Clause 2.17(ee)); or
 - (b) if the amount of that Line's Contingency Contribution has increased, deposit a further sum into the Contingency Account so that the total amount deposited by such Line equals the amount of its Contingency Contribution.
- 2.12 If the Committee, acting unanimously (as defined in Clause 2.12(d)), believes (i) that for the purpose of clauses 2.12-2.27 a Line ("the Certified Affected Line") has become an Affected Line, and (ii) that disbursements should be made from the Contingency Account:
- (a) The Committee, acting unanimously (as defined in Clause 2.12(d)) under this Clause 2.12 may give written notice(s) to the Trustees (a) certifying that the Certified Affected Line has become an Affected Line, (b) identifying the disbursements (with details of the